Before the
Federal Communication Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993	)	**WT Docket No. 02-379**
	)	
Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services	)	

Reply Comments Of:
Fred Williamson and Associates, Inc. ("FW&A")
On behalf of:

Chouteau Telephone Company, an Oklahoma ILEC
H&B Telephone Communications, Inc., a Kansas ILEC
Moundridge Telephone Company, Inc., a Kansas ILEC
Pine Telephone Company, Inc., an Oklahoma ILEC
Pioneer Telephone Association, Inc., a Kansas ILEC
Totah Telephone Company, Inc., a Kansas and Oklahoma ILEC
Twin Valley Telephone, Inc., a Kansas ILEC

February 11, 2003

Reply Comments

The Negative Effects Of Wireless Competition On Rural Wireless Incumbent Local Exchange Carriers (ILECs) Is Primarily Due To Asymmetric Commission Rules

It is reasonably clear from the Commission's own information[1] and comments filed in this proceeding[2] that there is sufficient competition among wireless providers in rural ILEC service areas. FW&A agrees with Dobson's observation that… "Higher marginal costs incurred in serving a rural market may cause fewer facility-based carriers to enter, but that fact does not necessarily lead to the conclusion that the market is less competitive"… [3] Dobson further states that…"the level of competition in a market should be measured from a customers perspective – *i.e.*, does the customer have the ability to change service providers if his/her current provider does not offer desired services?"[4]… The information in the Commission's possession indicates that, on the average, customers in rural areas now have the ability to change wireless service providers if they choose to, and consequently, this market is sufficiently competitive without further Commission intervention designed to artificially and uneconomically create rural wireless competitors.

The Cellular Telecommunications & Internet Association (CTIA) urges the Commission, in view of the competitive nature of the wireless market, to follow the regulatory equivalent of the Hippocratic oath: first do no harm. FW&A agrees with this CTIA

[1] The Commission indicates that there are at least three wireless competitors, on the average serving rural markets. This tracks well with the information that FW&A provided regarding the number of wireless competitors operating in the exchanges of the ILECs that FW&A represents.
[2] Mobile Satellite Ventures (MSV) states that it provides nationwide coverage, including to rural and remote areas on page 1 of its Comments. Dobson Communications (Dobson) states that competition has developed sufficiently in rural markets to force rural wireless carriers to offer services and rate plans that are essentially indistinguishable from those offered in urban markets on pages 1 and 2 of its Comments.
[3] Dobson comments on page 2.
[4] Id., page 3.

observation and urges the Commission to apply this principle to wireless and wireline competitors operating in the same rural areas. At odds with this principle, to date the Commission has implemented an asymmetric policy in rural ILEC service areas that favors wireless carriers and harms rural wireline ILECs. This policy has led to the uneconomic loss of ILEC access revenues and access lines. The policy has also led to the excessive growth of universal service funding and pressure to limit funding to rural ILECs. The asymmetric Commission rules or interpretation of those rules that uneconomically disadvantage and harm the ILECs are:

1. The disparate treatment of local calling. As the Montana Telecommunications Association (MTA) points out…"wireless 'local' traffic is defined by calls originating and terminating within a major trading area (MTA) while local wireline traffic is defined by calls within a local exchange area." The uneconomic and harmful effects of this differing local calling area are:

- Loss of the choice of a presubscribed carrier for originating wireline calls destined for CMRS subscribers beyond the ILEC local calling area, but within the MTA.
- Loss of Interexchange Carrier (IXC) toll revenues to the anti-competitive advantage of CMRS providers, simply because of the CMRS provider's expanded local calling area.
- At odds with the Commission's First Report and Order[5], rural LECs lose access compensation from the IXCs and are forced to pay terminating compensation to the CMRS providers as well as any transport costs, even

[5] CC Docket Nos. 96-98 and 95-185, paragraphs 1034 and 1043.

though the rural LEC is not the retail provider for the calls and has no revenue for the calls.

- Customers will pay higher rates required by the inappropriate local reciprocal compensation that ILECs are forced to pay to CMRS providers.

This situation can easily be cured by insuring that CMRS local calling areas are consistent with State Commission approved local calling areas. Assuming, however, that the Commission will not change its MTA CMRS local calling area definition, the harm to rural ILECs and their customers that this definition causes can be remedied if the Commission clarifies its intercarrier compensation policies to insure that rural ILECs are not required to treat presubscribed interexchange traffic terminating to wireless providers as local traffic. This clarification, at odds with the current practice, will "do no harm" to the CMRS provider, the ILEC, the IXC or the customer.

2. Asymmetric Eligible Telecommunication Carrier (ETC) requirements for ILECs and CMRS providers. These asymmetric rules, are putting at risk the sustainability of universally available service with just and reasonable rate levels in rural ILEC service areas throughout the country. At odds with the competitive neutrality requirements of the Communications Act, current FCC policies result in asymmetric requirements that provide a universal service funding preference for wireless carriers. For instance:

- As opposed to requirements on ILECs, there is no just, reasonable and affordable rate level established, monitored or even suggested for wireless carriers on either a state or federal basis. Consequently, wireless carriers can charge whatever rates they desire and still qualify for universal service funding.
- Unlike ILECs, wireless carriers are not required to demonstrate a need for universal service funding support. Their support is based on ILEC costs and not a demonstrated need based on their costs.

- Wireless carriers are not held to quality of service requirements, as are ILECs. Consequently, wireless carriers can and do, even in the major metropolitan areas as well as rural areas, provide inadequate service (dead spots, spotty and inadequate signal, dropped calls, etc.) and still qualify for universal service support.
- Wireless carriers are not required, as are ILECs, to provide equal access to toll carriers.
- Wireless carriers are not required to serve as a Carrier of Last Resort (COLR) for all customers in the universal service area.

The Commission and the Joint Board must insure that all competitors are operating under the same and equivalent rules, instead of rules that clearly provide an anti-competitive advantage and possibly a revenue windfall to the CMRS providers.

The Commission should also evaluate the questions posed by FW&A in its comments. If multiple CMRS providers have entered a market, then the Commission should evaluate if CMRS providers, because of their cost and/or rate structure, require universal service funding. If funding is now being provided where it is unneeded in an already competitive CMRS rural service area, everyone loses and "harm is done." Consumers are harmed by having unnecessarily high universal service charges added to their bills to provide unneeded CMRS universal service funding. CMRS competition is harmed by providing an unneeded advantage (universal service support funding) to one CMRS competitor, while other CMRS competitors do not receive nor apparently need that funding. ILECs are harmed by possible loss of funding required to provide, as the COLR, a quality universally available network with service charges at just, reasonable and affordable rates.

Respectfully submitted on behalf of the ILECs by,

Frederic G. Williamson
President, Fred Williamson & Associates, Inc.
2921 East 91st Street, Suite 200
Tulsa, OK. 74137-3355
Telephone: (918) 298-1618